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Silvia D. Manashirov
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September 29, 2023

Application to quash or
strike plaintiff's
Notice to Admit is
granted.

SO ORDERED.

NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

Dated: October 13, 2023

New York, New York

VIA ECF

Honorable Naomi Reice Buchwald
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Francis P. Quinn, Jr. and Lori A. Quinn, plaintiff v. City of New York, et. al.,
defendant/third-party plaintiff, v. Consolidated Edison, Inc., third-party defendant
20-CV-2666 (NRB)
Our File: 710-1108

Dear Judge Buchwald:

We represent third-party defendant Consolidated Edison Company of New York, Inc.
("Con Edison") in this action.

We respectfully submit this letter motion seeking to quash plaintiffs' Notice to Admit,
dated September 5, 2023, which plaintiffs' counsel served on the undersigned at our office on
September 11, 2023. The Notice to Admit is attached to this letter motion as Exhibit "A".

Your undersigned respectfully requests the Court strike and/or deem a nullity plaintiffs'
Notice to Admit for the following reasons:

- 1) Plaintiffs' counsel did not serve the Notice to Admit on the City. Indeed, the City is not a named recipient. The City has confirmed to me that they did not receive the Notice;
- 2) The address stated in the Notice does not exist; and most importantly,
- 3) The timing of the Notice is inappropriate given:
 - a. Pursuant to your Honor's August 25, 2023 Decision granting the City's request for permission to make a motion for summary judgment pursuant to Rule 56 of the Federal Rule of Civil Procedure, your Honor concluded additional discovery was not necessary before the City filed its motion, but if that proved not be the case, further discovery may be raised after the City's motion has been filed.
 - b. Your Honor deemed inoperative any discovery schedule set by Judge Koeltl in 2020; and

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HEIDELL, PITTONI, MURPHY & BACH, LLP

NEW YORK

CONNECTICUT

WESTCHESTER

LONG ISLAND

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- c. This Honorable Court granted Con Edison a Stay in this action from answering and/or otherwise engaging in discovery pending the City's motion for summary judgment.

Furthermore, given the Release from plaintiffs to Con Edison pursuant to their settlement in the prior action, plaintiffs cannot and should not be permitted to seek any further discovery from Con Edison in connection with pursuing their claims in this subsequent action. Plaintiffs had ample opportunity to obtain the information requested in their Notice to Admit in the prior action against Con Edison pursuant to FRCP, Rule 26(b)(2)(C).

Accordingly, your undersigned respectfully requests the Court quash or strike plaintiffs' Notice to Admit dated September 5, 2023 as to Con Edison and/or deem same a nullity. Alternatively, your undersigned respectfully requests permission to make a motion for a Protective Order pursuant to Federal Rules of Civil Procedure, Rule 26(c).

Thank you for your consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Silvia D. Manashirov'.

Silvia D. Manashirov, Esq. (SDM 5307)

SDM:vm
Enclosure

cc: **VIA ECF**

The City of New York
100 Church Street
New York, New York 10007

Joseph Napoli, Esq.
Napoli Shkolnik PLLC
Attorneys for Plaintiffs
360 Lexington Avenue, 11th Floor
New York, New York 10017

Exh. A

HEIDELL PITTONI MURPHY & BACH, LLP

Attorneys for Third-Party Defendants

Consolidated Edison, Inc.

99 Park Avenue

New York New York 10016

(212) 286-8585

FRANCIS PAUL QUINN, JR., and LORI ANN QUINN,

Plaintiffs,

-against-

THE CITY OF NEW YORK and THE NEW YORK
CITY DEPARTMENT OF TRANSPORTATION,

Defendants.

THE CITY OF NEW YORK and THE NEW YORK CITY
DEPARTMENT OF TRANSPORTATION,

Third-Party Plaintiff(s)

-against-

CONSOLIDATED EDISON, INC.,

Third-Party Defendant(s)

Docket No.: 20-cv-2666

NOTICE TO ADMIT

Third-Party Action

PLAINTIFFS, FRANCIS QUINN, JR., and LORI QUINN hereby request that third-party defendant CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., Admit:

1. That Consolidated Edison performed maintenance or repair work on the south side of 6th Avenue at the intersection with East 53rd Street, State of New York, County of New York at any time between July 3, 2016, through July 3, 2019. See the attached photograph depicting the above referenced area and work.

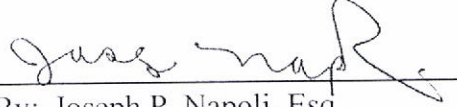
2. That Consolidated Edison performed maintenance or repair work on the south side of 6th Avenue at the intersection with East 53rd Street, State of New York, County of New York at any time between July 3, 2019, through July 3, 2020. See the attached photograph depicting the above referenced area and work.

PLAINTIFFS reserve the right to amend and/or supplement the foregoing disclosures as may become necessary during the course of discovery.

Dated: New York, New York
September 5, 2023

Yours, etc.,

NAPOLI SHKOLNIK, PLLC


By: Joseph P. Napoli, Esq.
Attorneys for Plaintiffs
360 Lexington Avenue – 11th Floor
New York, New York 10017-6502
(212) 397-1000

To: **HEIDELL PITTONI MURPHY & BACH, LLP**
Attorneys for Third-Party Defendants
Consolidated Edison, Inc.
99 Park Avenue
New York New York 10016
(212) 286-8585



Docket No.: 20-cv-2666

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

FRANCIS PAUL QUINN, JR., and LORI ANN QUINN,

Plaintiffs,

-against-

THE CITY OF NEW YORK and THE NEW YORK CITY DEPARTMENT OF
TRANSPORTATION.

Defendants.

PLAINTIFF'S NOTICE TO ADMIT

NAPOLI SHKOLNIK, PLLC.

Attorneys for Plaintiff

360 Lexington, Avenue 11th Floor

New York, New York 10017-6502

(212) 397-1000

To

Attorney(s) for Defendants

Service of a copy of the within _____ is hereby admitted.

Dated:

Attorney(s) for Plaintiff

Sir:

☐ Please take notice that the within is a (certified) true copy of a _____
duly entered in the Office of the Clerk of the within named Court on _____, 20____

☐ Please take Please take notice that an Order of _____
which the within is a true copy will be presented for settlement to the Hon. _____
one of the Judges of the within named Court, at _____ on _____, 20____
at ____:____ ☐ a.m./ ☐ p.m.